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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/717,271

11/18/2003

Douglas B. Macrae

UV-273

7423

75563

7590

09/17/2008

ROPES & GRAY LLP

PATENT DOCKETING 39/361

1211 AVENUE OF THE AMERICAS

NEW YORK, NY 10036-8704

EXAMINER

IDOWU, OLUGBENGA O

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/717,271	<b>Applicant(s)</b> MACRAE ET AL.	
	<b>Examiner</b> OLUGBENGA O. IDOWU	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-19,39-44,64-69,89-94 and 101-104 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19,39-44,64-69,89-94 and 101-104 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 6/23/2008 have been fully considered but they are not persuasive.

In response to the applicant's arguments on page 9, with regards to examiner's unreasonably broad interpretation; as the applicant indicated the claims are understood based on the specification but are given the broadest reasonable interpretation. The term real time can be used in various fields and scenarios to explain the process of requesting and receiving data. The claims, in this case, are calling for a system that has an indicator for the presence of data currently available from an external source, allowing the user to request the data and then presenting the data. Matthews provides a program guide that has an indication for content that is not locally stored, allows the user to select the indication and provides the data associated with the indication to the user. Matthews' interpretation is reasonable.

In response to applicant's arguments on page 11, concerning real time data feeds; if it agreed that the content that is presented is provided in real time, then the source of the content must be a real time data source. Also, with regards to arguments about the data being stored at the headend, the applicant's specification on page 12, lines 7 - 18 states that the real time data feed can be buffered for easy access. Hence, Matthews clearly teaches the present invention as set forth in the claims.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 14 -15, 17, 19, 39 - 40, 42, 44, 64-65, 67, 69, 89-90, 92 and 94 rejected under 35 U.S.C. 102(e) as being anticipated by Matthews, publication number: US 2004/0139465 A1.

As per claims 14, 39, 64 and 89, Matthews teach providing users with real- time information using an interactive television program guide application, the method comprising:

accessing real-time information form at least one real-time data feed (hyperlinks, [0069], lines 1 – 2, 5 - 9);

displaying at least one program listing comprising at least some of the real-time information, wherein the at least one program listing corresponds to a program (EPG, [0047]);

providing the user with an indication that content related to the real-time information is available, wherein the indication is selectable (hyperlinks, [0069], lines 1 – 2, 5 - 9) and

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wherein the content is not the program that corresponds to the at least one program listing (hyperlink accessing information from the web, [0072]); and in response to selecting the indication, displaying the content (browser being lunched based on hyperlink access, [0072]).

As per claims 15, 40, 65 and 90, Matthew teaches wherein the indication is a video clip (hyperlink being a link to a video, [0069], lines 9 - 14).

As per claims 17, 42, 67 and 92, Matthews teach wherein the indication is an alert (hyperlink 140, [0069], lines 1-2)

As per claims 19, 44, 69 and 94, Matthews teach wherein the displaying the real-time content further comprises providing the user with a program that is currently being broadcast, and wherein the program that is currently being broadcast is discussing the real-time information (hyperlink for the Seinfeld show pointing to video coverage of Jerry Seinfeld, [0069], lines, lines 9 - 14)

As per claims 101- 104, Matthews teach further comprising buffering the accessed real-time information by storing the real-time information in a database ([0069], lines 17 - 22).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16, 41, 66 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, publication number: US 2004/0139465 A1 in view of Schlarb, publication number: US 2004/0078823 A1.

As per claims 16, 41, 66 and 91, Matthews teaches a system that indicates the availability of data to a user and allows the user to access the data.

Matthews does not teach a system that uses an icon.

In an analogous art, Schlarb teaches a system that uses an icon as an indication (PPV icon 302, [0018])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Matthews' supplemental information system by including an icon instead of a whole URL, as described in Schlarb's program identification system for the advantages of reducing clutter in the EPG and allowing user to easily comprehend what is being displayed.

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6. Claims 18, 43, 68 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, publication number: US 2004/0139465 A1 in view of Dunn, patent number: US 6 668 377B1.

As per claim 18, 43, 68 and 93 Matthews teaches indicating the availability of data to a user and allows the user to access the data.

Matthews does not teach a system whereby the user can remove an indication.

In an analogous art, Dunn teaches a system whereby the user can remove an indication (removing an item from a list, col. 10, lines 21 – 26)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Matthews' supplemental information system by allowing a user to remove unnecessary indicators, as described in Dunn's preview system, for the advantages on reducing clutter and unnecessary indicators in the program guide.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/



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Examiner, Art Unit 2623

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623